

Notice of Allowability

Application No.

10/695,311

Examiner

James S McClellan

Applicant(s)

KELLY, ANDREW JEFFREY

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.


1. ☒ This communication is responsive to divisional application filed 10/28/03.
 2. ☒ The allowed claim(s) is/are 1-10.
 3. ☒ The drawings filed on 28 October 2003 are accepted by the Examiner.
 4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10/28/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other Restriction/Election.


JAMES MCCLELLAN
PRIMARY EXAMINER

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10, drawn to **a payroll system for determining compensation for employees**, classified in class 707, subclass 102.
 - II. Claims 23-32, drawn to **a method of employee management**, classified in class 705, subclass 8.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the system of invention I does not require the utilization of an invoice to determine information as required by the method of invention II.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper. In addition to a different classification, Groups I and II would require different text searches.

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5. During a telephone conversation with Lynn Barber on 8/18/04 a provisional election was made without traverse to prosecute the invention of Group I claims 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-32 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. This application is in condition for allowance except for the presence of claims 23-32 which are non-elected without traverse. Accordingly, claim 23-32 been cancelled by the Examiner.

EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lynn Barber on 8/19/04.

The application has been amended as follows:

claims 23-32 have been canceled;

in **claim 1**, line 8, --of estimated labor costs-- has been inserted after "units" and before ","; and

in **claim 1**, line 12, --embedded in a computer-readable medium-- has been inserted after "programs" and before ",".

REASONS FOR ALLOWANCE

8. The following is an examiner's statement of reasons for allowance:

In regards to independent **claim 1**, applicant's claim is allowable because the prior art fails to disclose a payroll system for determining employee compensation for work during a pay period that calculates a minimum compensation amount and a unit compensation amount and determining whether the employee has an outstanding debit account amount for previous pay periods; and finally determining an employees pay and determining whether each employee's debit account amount should be adjusted. The prior art fails to disclose an employee debit account that allows an employee to get paid a rate higher than a unit compensation amount for the actual work completed and then pay back the compensation not earned when the employee's earns more than the minimum compensation amount. McCart's article, *Get What You Pay For: Performance*, discloses a method of compensating employees by defining a compensation amount by a minimum compensation amount for a given number of hours worked plus a commission and paid overtime. McCart fails to disclose providing an employee debit account and a unit compensation amount and allowing the employee earn more than a unit compensation amount by debiting the negative balance into a debit account. Swart (US 6,347,306) discloses a method for automatically paying employees immediately upon completion a work segment based on employee rate and shift information. Swart fails to disclose providing an employee debit account and a unit compensation amount and allowing the employee earn more than a unit compensation amount by debiting the negative balance into the debit account. International Publication Number WO 01/57813 A1 discloses a system and method for allowing an employee

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to purchase items using from an employee account by deducting money from an employees paycheck. WO '813 fails to disclose comparing a base rate amount and a unit rate amount.

Claims 11-22 are allowable for the reasons set forth above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Vasic is cited of interest for disclosing a method of payroll access including an employee account.

Williams is cited of interest for disclosing a system and method for managing payroll data.

Webb, Jr. et al. is cited of interest for disclosing a payroll system that maintains sales records as part of an employees records

Swentor is cited of interest for disclosing an integrated full service employer and employee system and method for accessing accounts.

Wilson is cited of interest for disclosing a system and method for making installment load payments using payroll debits.

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Derwent Publication 2002-600219 is cited of interest for disclosing a payroll administration system that debits pooled account and sub-account of authorized employee.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

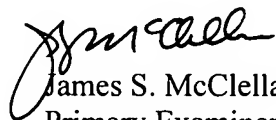
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
August 19, 2004